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MEMORANDUM

TO: **BRIAN McCORMICK**
Regulatory and Manual Section Manager
Department of Medical Assistance Services

FROM: **REATHA B. KAY**
Special Counsel to DMAS

DATE: **June 29, 2006**

SUBJECT: **Final Exempt Regulation Concerning Changes Pursuant to the Deficit Reduction Act of 2005**

I have reviewed the attached final exempt regulations which incorporate certain changes required by the Deficit Reduction Act of 2005 (the "DRA").

Based on that review, it is my view that the Director, acting on behalf of the Board of Medical Assistance Services pursuant to Va. Code §32.1-324, has the authority to promulgate these amendments to the State Plan, subject to compliance with the requirements of Article 2 of the Administrative Process Act and has not exceeded that authority.

The amendments to the regulations incorporate changes, required by the DRA, to the transfer of asset rules, the determination of the monthly maintenance allowance, the undue hardship waiver process, the treatment of certain entrance fees in a continuing care retirement community or life-care community, the requirements for proof of citizenship and identity, and the eligibility requirements for Medicaid payment of long-term care services. Based on the foregoing, it is my view that the promulgation of these amendments is exempt from the procedures of Article 2 of the Administrative Process Act pursuant to Virginia Code §2.2-4006(A)(4)(a).

Brian McCormick

June 29, 2006

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If you have any questions, please contact me at 786-1841.

cc: Kim F. Piner, Esquire

Attachment